

Memorandum

To : Honorable Jerome E. Horton, Chairman
Honorable Michelle Steel, Vice Chair
Honorable Betty T. Yee, First District
Senator George Runner, Second District
Honorable John Chiang, State Controller

Date: April 15, 2011

From : Jeffrey L. McGuire, Deputy Director
Sales and Use Tax Department (MIC 43)



Subject : Board Meeting, April 26, 2011
Business Taxes Committee
Request approval to publish proposed Regulation 1685.5,
Calculation of Estimated Use Tax – Use Tax Table

Board staff requests your approval and authorization to publish proposed Sales and Use Tax Regulation 1685.5, *Calculation of Estimated Use Tax – Use Tax Table* (Exhibit 1). The proposed regulation prescribes the use tax table for calendar year 2011, which the Board is required to forward to the Franchise Tax Board (FTB) by July 30, 2011, and prescribes the methodology the Board will use to calculate the estimated amount of use tax due according to a person's adjusted gross income for calendar year 2012 and subsequent years so that the Board can prepare and forward use tax tables to the FTB by July 30 of each of those years.

I. Background

Section 6451.2 of the Revenue and Taxation Code (RTC), as amended by Senate Bill No. 86 (Statutes 2011, Chapter 14) approved by the Governor on March 24, 2011, gives eligible consumers the option to satisfy their use tax obligations with regard to their nonbusiness purchases of individual items of tangible personal property each with a sales price of less than one thousand dollars (\$1,000) by reporting their estimated amount of use tax as calculated by the Board on their California income tax returns. Section 6451.2 also requires the Board to annually calculate the estimated amount of use tax due according to a person's adjusted gross income and by July 30 of each calendar year, beginning July 30, 2011, make available to the FTB such amounts in the form of a use tax table for inclusion in the instructions to the FTB's income tax returns.

Taxpayers will continue to have the option to satisfy their use tax obligations by reporting the amount of use tax they owe after applying their actual use tax rates to their actual purchases subject to use tax. Furthermore, funds received from the use tax line on the FTB returns will continue to be allocated according to the taxpayer's address as received by the FTB. Local taxes will be allocated to the countywide pools and applicable district taxes will be allocated based on the countywide pools, with consideration given as to whether the taxpayer's address is within a city that imposes a district tax.

II. Need for a Regulation

The Sales and Use Tax Law (Rev. & Tax. Code, § 6001 et seq.) does not prescribe the manner in which the Board is to calculate the estimated amount of use tax due according to a person's adjusted gross income or how the use tax estimates derived from such calculations are to be formatted into use tax tables. Therefore, the Board must prescribe how the estimated amount of use tax due according to a person's adjusted gross income shall be calculated and how such estimates are to be formatted into use tax tables pursuant to section 6451.2.

The California Administrative Procedure Act (commencing with section 11340 of chapter 3.5 of part 1 of division 3 of title 2 of the Government Code) defines the term "Regulation" to mean "*every rule, regulation, order, or standard of general application* or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure." (Gov. Code, § 11342.600, emphasis added.) The California Administrative Procedure Act also establishes procedural requirements for the Board's adoption of regulations. Board staff believes that when the Board prescribes how the estimated amount of use tax due according to a person's adjusted gross income shall be calculated and how the estimates shall be formatted into use tax tables, the procedures will constitute rules of general application (or regulations), which must be adopted in accordance with the Administrative Procedure Act's formal rulemaking procedures.

Given the statutory requirement that the Board provide the 2011 use tax table to FTB by July 30, 2011, and given the 2011 California Regulatory Notice Register Publication Schedule set by the Office of Administrative Law (OAL), staff will be requesting the Board's authorization to publish proposed Regulation 1685.5 at the April 26, 2011, meeting. If the Board authorizes publication on April 26, 2011, and Board staff delivers the notice of action for the proposed regulation to OAL by the close of business the same day, it will permit OAL to publish the notice of action on May 6, 2011, allow the Board to complete the 45 day notice and comment period by June 20, 2011, and allow the Board to hold a public hearing and adopt the regulation during its June 21-24, 2011, meeting. Furthermore, this timeline will allow staff to submit the required final rulemaking documents to OAL for approval as soon as possible and commence the 30-working-day period OAL has to review and either approve or reject the Board's regulation. Unfortunately, the March 23 amendments to section 6451.2 have not allowed staff enough time to discuss the proposed regulation with interested parties or to schedule this matter for Board discussion before the April 26 meeting of the Business Taxes Committee.

The timeline is summarized as follows:

1. April 26, 2011 - Board authorizes publication and notice of action is delivered to OAL;
2. May 6, 2011 – Notice of Action published;
3. June 20, 2011 - 45 day comment period completed;
4. June 21-24, 2011 - Board conducts a public hearing and adopts the proposed regulation; and
5. Week of June 27, 2011 (or sooner if possible) – Staff prepares final statement of reasons and delivers final rulemaking file to OAL to commence OAL's review period.

III. Proposed Regulation 1685.5 (Methodology)

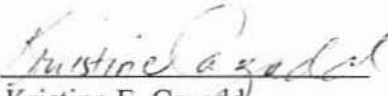
Proposed Regulation 1685.5 prescribes the use tax table for calendar year 2011. It also prescribes how the estimated amount of use tax due according to a person's adjusted gross income shall be calculated and how the estimates shall be formatted into use tax tables in subsequent years.

As prescribed in proposed Regulation 1685.5, a person's estimated use tax liability is calculated by applying a use tax liability factor to the specified Adjusted Gross Income (AGI) for the person's AGI range. The calculations are presented in a table that allows a taxpayer to find their AGI within an established AGI range and read across to the right column to find their estimated use tax liability. The goal is to develop a simple table that is consistent with AGI ranges reported by the FTB with similar percentages of taxpayers in each AGI range.

The established eight AGI ranges are based on data provided by FTB. The use tax liability factor is prescribed in the regulation, based on: 1) data regarding U.S. Spending at Electronic Shopping and Mail Order Houses obtained from the U.S. Department of Commerce Bureau of the Census (Exhibit 2); 2) U.S. personal income data obtained from U.S. Department of Commerce Bureau of Economic Analysis (Exhibit 3); 3) the average percentage of California purchases from out-of-state vendors without nexus based on the Board's revenue estimate, "Electronic Commerce and Mail Order Sales" (Exhibit 4, Page 3); and 4) the average state, local, and district sales and use tax rates.

IV. Conclusion

By July 30 of each year, the BOE is required to provide the FTB a table that a taxpayer may use to report an estimated amount of use tax due. Since section 6451.2 does not specify a formula for estimating use tax liabilities and does not specify the format of the required table, Board staff requests the Board's authorization to publish the proposed regulation to prescribe the methodology that the Board shall use to estimate the amount of use tax due according to a person's adjusted gross income and format the estimates into use tax tables.

Approved: 
Kristine E. Cazadd
Interim Executive Director

JLM:rw

cc: Mr. Alan LoFaso (MIC 71)
Ms. Regina Evans
Mr. Sean Wallentine (MIC 78)
Mr. Louis Barnett (MIC 77)
Ms. Marcy Jo Mandel
Ms. Kristine Cazadd (MIC 73)
Mr. Randy Ferris

Regulation 1685.5. Calculation of Estimated Use Tax – Use Tax Table

Reference: Section 6452.1, Revenue and Taxation Code.

(a) IN GENERAL

The Board of Equalization (BOE) is required to annually calculate the estimated amount of use tax due according to a person's adjusted gross income (AGI) and make such amounts available to the Franchise Tax Board (FTB), by July 30 of each year, in the form of a use tax table for inclusion in the instructions to the FTB's returns.

(b) DEFINITIONS AND DATA SOURCES

(1) AGI RANGES. The use tax table shall be separated into eight (8) AGI ranges as follows:

- (A) AGI less than \$20,000;
- (B) AGI of \$20,000 to \$39,999;
- (C) AGI of \$40,000 to \$59,999;
- (D) AGI of \$60,000 to \$79,999;
- (E) AGI of \$80,000 to \$99,999;
- (F) AGI of \$100,000 to \$149,999;
- (G) AGI of \$150,000 to \$199,999;
- (H) AGI more than \$199,999.

(2) USE TAX LIABILITY FACTOR OR USE TAX TABLE PERCENTAGE. For the 2011 calendar year the use tax liability factor or use tax table percentage shall be 0.070 percent (.0007). On May 1, 2012, and each May 1 thereafter, the BOE shall calculate the use tax liability factor or use tax table percentage for the current calendar year by multiplying the percentage of income spent on electronic and mail order purchases for the proceeding calendar year by 0.37, multiplying the product by the average state, local, and district sales and use tax rate, and then rounding the result to the nearest thousandth of a percent.

(3) TOTAL PERSONAL INCOME. Total personal income shall be determined by reference to the most current personal income data published by the United States Bureau of Economic Analysis.

(4) TOTAL SPENDING AT ELECTRONIC SHOPPING AND MAIL ORDER HOUSES. Total spending at electronic shopping and mail order houses shall be determined by reference

to the most current electronic shopping and mail order house spending data published by the United States Census Bureau.

(5) **PERCENTAGE OF INCOME SPENT ON ELECTRONIC AND MAIL ORDER PURCHASES.** The percentage of income spent on electronic and mail order purchases during a calendar year shall be calculated by dividing the total spending at electronic shopping and mail order houses for that year by the total personal income for that year, multiplying the result by 100, and rounding the result to the nearest tenth of a percent.

(6) **AVERAGE STATE, LOCAL, AND DISTRICT SALES AND USE TAX RATE.** The average state, local, and district sales and use tax rate for a calendar year shall be the total of:

(A) The rates of the statewide sales and use taxes imposed under section 35 of article XIII of the California Constitution and the Sales and Use Tax Law (Rev. & Tax. Code, § 6001 et seq.) in effect on January 1 of that year;

(B) The statewide rate of local tax imposed under the Bradley-Burns Uniform Local Sales and Use Tax Law (Rev. & Tax. Code, § 7200 et seq.) in effect on January 1 of that year; and

(C) The weighted average rate of the district taxes imposed under the Transactions and Use Tax Law (Rev. & Tax Code, § 7251 et seq.) in effect in the various jurisdictions throughout the state on January 1 of that year after taking into account the proportion of the total statewide taxable transactions (by dollar) reported for each jurisdiction during the fourth quarter of the calendar year that is two years prior to the calendar year for which the calculation is made. For example, the total reported taxable transactions (by dollar) for the fourth quarter of 2010 shall be used to determine the weighted average rate of the district tax rates in effect on January 1, 2012, to calculate the weighted average rate of district taxes for calendar year 2012.

(c) CALCULATION OF THE ESTIMATED USE TAX LIABILITY

(1) The estimated use tax liability for the AGI range described in subdivision (b)(1)(A) shall be determined by multiplying \$10,000 by the use tax liability factor or use tax table percentage and then rounding the result to the nearest whole dollar.

(2) The estimated use tax liability for the AGI ranges described in subdivision (b)(1)(B) through (G) shall be determined by multiplying the midpoint of each AGI range by the use tax liability factor or use tax table percentage and then rounding the result to the nearest whole dollar.

(3) The estimated use tax liability for the AGI range described in subdivision (b)(1)(H) shall be determined by multiplying each range member's actual AGI by the use tax liability factor or use tax table percentage and then rounding the result to the nearest whole dollar.

(d) USE TAX TABLE FORMAT

(1) The use tax table for calendar year 2011 shall provide as follows:

Adjusted Gross Income (AGI) Range			Use Tax Liability
Less Than \$20,000			\$7
\$20,000	to	\$39,999	\$21
\$40,000	to	\$59,999	\$35
\$60,000	to	\$79,999	\$49
\$80,000	to	\$99,999	\$63
\$100,000	to	\$149,999	\$88
\$150,000	to	\$199,999	\$123
More than \$199,999 -Multiply AGI by 0.070% (.0007)			

(2) The use tax tables for calendar year 2012 and subsequent years shall utilize the same format as the use tax table for calendar year 2011.

U.S. Spending at Electronic Shopping and Mail Order Houses

Obtained from the U.S. Department of Commerce Bureau of the Census

Exhibit 2

Estimates of Monthly Retail and Food Services Sales by Kind of Business: 2010

[Estimates are shown in millions of dollars and are based on data from the Monthly Retail Trade Survey, Annual Retail Trade Survey, and administrative records]

NAICS Code	Kind of Business	Jan. 2010	Feb. 2010	Mar. 2010	Apr. 2010	May 2010	Jun. 2010	Jul. 2010	Aug. 2010	Sep. 2010	Oct. 2010	Nov. 2010	Dec. 2010	TOTAL
NOT ADJUSTED														
	Retail and food services sales, total	321,550	317,961	369,339	366,002	375,699	369,031	372,451	373,373	355,393	365,517	376,326	439,431	4,402,073
	Retail sales and food services excl motor vehicle and parts	270,535	264,903	300,064	299,646	308,523	302,350	303,625	305,698	292,368	302,804	316,172	373,523	3,640,211
	Retail sales, total	285,435	281,998	329,308	325,949	334,269	329,011	330,812	332,491	316,745	324,950	338,533	399,322	3,928,823
	Retail sales, total (excl. motor vehicle and parts dealers)	234,420	228,940	260,033	259,593	267,093	262,330	261,986	264,816	253,720	262,237	278,379	333,414	3,166,961
	GAFO(1)	82,496	83,866	92,552	89,407	94,083	90,853	92,202	96,168	88,374	92,062	105,664	141,115	1,148,842
441	Motor vehicle and parts dealers	51,015	53,058	69,275	66,356	67,176	66,681	68,826	67,675	63,025	62,713	60,154	65,908	761,862
4411,4412	Automobile and other motor vehicle dealers	45,649	47,392	62,589	59,703	60,682	59,720	61,989	60,612	56,286	55,920	53,664	59,420	683,626
4411	Automobile dealers	42,518	43,726	56,840	53,253	54,419	53,264	56,091	55,390	51,857	51,827	49,851	55,843	624,879
44111	New car dealers	37,378	37,442	50,271	47,314	48,580	47,084	49,911	49,085	45,838	45,624	44,130	50,162	552,819
44112	Used car dealers	5,140	6,284	6,569	5,939	5,839	6,180	6,180	6,305	6,019	6,203	5,721	5,681	72,060
4413	Automotive parts, acc., and tire stores	5,366	5,666	6,686	6,653	6,494	6,961	6,837	7,063	6,739	6,793	6,490	6,488	78,236
442,443	Furniture, home furn., electronics, and appliance stores	14,666	15,133	15,919	14,574	15,345	15,611	15,958	16,150	15,479	14,844	17,990	22,476	194,145
442	Furniture and home furnishings stores	6,767	6,935	7,810	7,238	7,469	7,426	7,799	7,895	7,623	7,285	8,177	9,104	91,528
4421	Furniture stores	3,922	4,066	4,362	3,920	4,230	3,999	4,226	4,260	4,187	3,950	4,259	4,296	49,697
4422	Home furnishings stores	2,845	2,849	3,448	3,318	3,239	3,427	3,573	3,635	3,436	3,335	3,918	4,808	41,831
44221	Floor covering stores	1,049	1,154	1,346	1,329	1,201	1,438	1,408	1,478	1,371	1,312	1,224	1,155	15,465
442299	All other home furnishings stores	1,696	1,598	1,980	1,879	1,923	1,879	2,053	2,048	1,954	1,909	2,580	3,559	25,058
443	Electronics and appliance stores	7,899	8,198	8,109	7,336	7,876	8,185	8,159	8,255	7,856	7,559	9,813	13,372	102,617
44311	Appl. TV, and other elect. stores	6,036	6,346	6,079	5,523	5,995	6,186	6,149	6,155	5,823	5,585	7,412	10,062	77,351
443111	Household appliance stores	1,165	1,184	1,280	1,303	1,428	1,405	1,417	1,348	1,278	1,241	1,518	1,572	16,139
443112	Radio, T.V., and other elect. stores	4,871	5,162	4,799	4,220	4,567	4,781	4,732	4,807	4,545	4,344	5,894	8,490	61,212
44312	Computer and software stores	1,686	1,682	1,809	1,603	1,653	1,776	1,807	1,886	1,846	1,762	2,182	3,005	22,697
444	Building mat. and garden equip. and supplies dealers	16,345	16,625	23,563	29,710	29,376	28,411	25,574	24,036	23,591	24,558	23,925	22,617	288,331
4441	Building mat. and supplies dealers	14,195	14,235	19,682	22,521	22,614	22,485	21,124	20,194	19,757	19,839	19,495	18,347	234,488
44412	Paint and wallpaper stores	472	490	679	711	735	800	763	792	744	690	644	521	8,061
44413	Hardware stores	1,277	1,235	1,524	1,743	1,838	1,726	1,623	1,507	1,456	1,521	1,622	1,683	18,755
445	Food and beverage stores	47,659	44,829	48,771	47,717	50,282	48,497	50,432	49,127	48,222	49,466	49,721	54,649	589,372
4451	Grocery stores	43,313	40,343	43,757	42,554	44,907	43,239	44,922	43,863	43,040	44,068	44,244	47,220	525,470
44511	Supermarkets and other grocery (except convenience) stores	41,120	38,324	41,458	40,264	42,530	40,870	42,505	41,291	40,623	41,610	41,903	44,767	497,265
4453	Beer, wine, and liquor stores	2,854	2,895	3,205	3,328	3,459	3,442	3,683	3,482	3,403	3,528	3,550	4,725	41,554
446	Health and personal care stores	20,956	20,369	22,761	21,754	21,605	21,800	21,614	21,923	21,631	22,109	22,167	25,271	263,960
44611	Pharmacies and drug stores	18,009	17,304	19,369	18,478	18,426	18,496	18,281	18,433	18,215	18,681	18,767	21,041	223,500
447	Gasoline stations	32,618	30,663	35,734	36,794	37,817	36,913	38,189	37,816	35,977	37,240	35,895	37,748	433,394
448	Clothing and clothing access. stores	13,605	15,240	17,718	17,395	18,178	16,532	17,246	18,300	16,550	17,753	20,372	29,260	218,149
4481	Clothing stores	10,037	10,655	13,153	12,935	13,180	12,221	12,749	13,211	12,349	13,195	15,099	20,027	158,811
44811	Men's clothing stores	531	526	635	705	702	671	610	581	634	714	754	1,114	8,177
44812	Women's clothing stores	2,278	2,426	3,183	3,249	3,233	2,949	2,762	2,858	2,940	3,082	3,377	4,416	36,753
44814	Family clothing stores	4,990	5,607	6,894	6,752	6,904	6,362	6,983	7,314	6,419	6,964	8,361	11,309	84,899
44819	Other clothing stores	983	902	954	927	975	950	953	911	845	950	992	1,256	11,598
4482	Shoe stores	1,732	2,067	2,368	2,262	2,266	2,078	2,233	2,850	2,111	2,189	2,322	3,079	27,557
44831	Jewelry stores	1,703	2,384	2,036	2,050	2,567	2,063	2,079	2,074	1,930	2,184	2,741	5,827	29,638
451	Sporting goods, hobby, book, and music stores	6,974	5,647	6,741	6,309	6,557	6,925	6,832	8,253	6,847	6,414	7,922	12,501	87,922
45111	Sporting goods stores	2,528	2,472	3,319	3,188	3,272	3,620	3,507	3,707	3,026	2,827	3,397	5,346	40,209
45112	Hobby, toy, and game stores	1,157	1,219	1,419	1,305	1,277	1,260	1,319	1,283	1,334	1,569	2,365	3,656	19,163
451211	Book stores	2,234	1,013	1,013	918	1,087	1,095	1,090	2,300	1,525	1,000	1,084	2,088	16,497
452	General merchandise stores	44,319	45,028	49,181	48,269	50,998	48,842	49,195	50,011	46,246	49,652	56,075	72,463	610,279
4521	Department stores (excl. L.D.)	12,429	13,126	14,783	14,305	15,006	14,408	14,091	14,954	13,635	14,515	18,570	26,782	186,604
452112	Discount dept. stores	8,599	8,822	10,017	9,270	9,995	9,670	9,556	10,152	8,937	9,613	12,128	16,550	123,309
452111	Department stores (excl. discount department stores)	3,830	4,304	4,766	5,035	5,011	4,738	4,535	4,802	4,698	4,902	6,442	10,232	63,295
4521	Department stores (incl. L.D.)(2)	12,707	13,424	15,116	14,620	15,335	14,708	14,393	15,275	13,952	14,838	19,010	27,382	190,760
452112	Discount dept. stores	8,727	8,954	10,173	9,412	10,145	9,815	9,702	10,310	9,079	9,768	12,322	16,795	125,202
452111	Department stores (excl. discount department stores)	3,980	4,470	4,943	5,208	5,190	4,893	4,691	4,965	4,873	5,070	6,688	10,587	65,558
4529	Other general merchandise stores	31,890	31,902	34,398	33,964	35,992	34,434	35,104	35,067	32,611	35,137	37,505	45,681	423,675
45291	Warehouse clubs and superstores	28,433	28,135	30,138	29,635	31,594	30,144	30,880	30,908	28,488	30,728	32,698	39,613	371,394
45299	All other gen. merchandise stores	3,457	3,767	4,260	4,329	4,398	4,290	4,224	4,149	4,123	4,409	4,807	6,068	52,281
453	Miscellaneous store retailers	8,198	8,321	9,555	9,383	10,292	10,613	10,234	10,248	10,209	10,704	10,181	12,143	120,081
4532	Office supplies, stationery, and gift stores	2,932	2,818	2,993	2,860	3,005	2,943	2,971	3,454	3,252	3,399	3,305	4,415	38,347
45321	Office supplies and stationery stores	1,871	1,673	1,762	1,607	1,538	1,523	1,555	2,072	1,863	1,606	1,628	1,871	20,569
45322	Gift, novelty, and souvenir stores	1,061	1,145	1,231	1,253	1,467	1,420	1,416	1,382	1,389	1,793	1,677	2,544	17,778
4533	Used merchandise stores	906	993	1,130	1,101	1,122	1,023	1,159	1,143	1,165	1,300	1,214	1,510	13,766
454	Nonstore retailers	29,080	27,095	30,090	27,688	26,643	28,186	26,712	28,952	28,968	29,497	34,131	44,286	361,328
4541	Electronic shopping and mail-order houses	20,201	18,884	21,973	20,806	20,435	21,630	20,627	22,515	22,118	22,288	26,384	34,354	272,215
45431	Fuel dealers	5,458	4,745	3,770	2,741	2,321	2,268	2,114	2,237	2,552	3,024	3,677	5,535	40,442
722	Food services and drinking places	36,115	35,963	40,031	40,053	41,430	40,020	41,639	40,882	38,648	40,567	37,793	40,109	473,250
7221	Full service restaurants	15,790	15,520	17,456	17,353	18,013	17,090	17,947	17,372	16,070	16,942	15,886	17,561	203,000
7222	Limited service eating places	15,672	15,512	17,254	17,000	17,686	17,536	18,182	18,008	16,642	17,645	16,546	17,210	204,893
7224	Drinking places	1,592	1,625	1,800	1,725	1,759	1,753	1,868	1,825	1,748	1,826	1,721	1,793	21,035

U.S. Spending at Electronic Shopping and Mail Order Houses

Obtained from the U.S. Department of Commerce Bureau of the Census

Exhibit 2

	Jan. 2010	Feb. 2010	Mar. 2010	Apr. 2010	May 2010	Jun 2010	Jul 2010	Aug 2010	Sep. 2010	Oct. 2010	Nov. 2010	Dec. 2010	TOTAL
ADJUSTED(3)													
Retail and food services sales, total	354,736	355,570	364,836	365,997	362,219	361,170	362,829	365,992	369,440	375,460	378,301	380,683	
Retail sales and food services excl motor vehicle and parts	294,820	297,882	302,328	303,201	299,400	299,365	300,140	303,161	305,611	308,196	310,828	311,668	
Retail sales, total	316,479	316,565	325,435	326,614	322,912	321,858	323,473	326,339	329,760	335,571	338,393	340,694	
Retail sales, total (excl. motor vehicle and parts dealers)	256,563	258,847	262,927	263,818	260,093	260,053	260,784	263,508	265,931	268,307	270,920	271,679	
GAFO(1)	94,417	95,271	96,404	95,648	95,002	95,271	95,331	95,716	96,196	96,373	97,270	96,219	
441 Motor vehicle and parts dealers	59,916	57,718	62,508	62,796	62,819	61,805	62,689	62,831	63,829	67,264	67,473	69,015	
4411,4412 Automobile and other motor vehicle dealers	53,705	51,401	56,134	56,324	56,396	55,348	56,251	56,174	57,143	60,585	60,775	62,285	
4413 Automotive parts, acc., and tire stores	6,211	6,317	6,374	6,472	6,423	6,457	6,438	6,657	6,686	6,679	6,698	6,730	
442,443 Furniture, home furn, electronics, and appliance stores	16,031	16,367	16,431	16,210	16,216	16,204	16,274	16,219	16,335	16,173	16,084	15,980	
442 Furniture and home furnishings stores	7,527	7,706	7,873	7,676	7,606	7,531	7,601	7,635	7,638	7,573	7,592	7,568	
443 Electronics and appliance stores	8,504	8,661	8,558	8,534	8,610	8,673	8,673	8,584	8,697	8,600	8,492	8,412	
44312 Computer and software stores	1,845	1,816	1,798	1,797	1,868	1,891	1,937	1,963	1,974	1,960	1,919	1,925	
444 Building mat. and garden equip. and supplies dealers	22,227	22,384	23,917	25,842	23,547	23,374	23,399	23,697	24,117	25,003	24,515	25,013	
4441 Building mat. and supplies dealers	18,507	18,608	20,207	20,853	19,562	19,284	19,169	19,123	19,294	19,701	19,554	19,899	
445 Food and beverage stores	48,438	49,023	49,150	48,912	48,769	48,679	48,516	49,205	49,380	49,656	50,014	49,687	
4451 Grocery stores	43,270	43,709	43,801	43,556	43,515	43,413	43,277	43,863	44,008	44,245	44,601	44,338	
4453 Beer, wine and liquor stores	3,362	3,455	3,472	3,474	3,421	3,432	3,410	3,492	3,501	3,532	3,511	3,459	
446 Health and personal care stores	21,318	21,532	21,657	21,754	21,627	21,910	21,943	22,122	22,277	22,378	22,482	22,624	
44611 Pharmacies and drug stores	18,136	18,272	18,429	18,478	18,463	18,664	18,597	18,752	18,682	18,756	18,918	19,024	
447 Gasoline stations	35,225	35,396	36,206	36,250	35,277	34,434	35,068	35,642	36,231	36,726	38,227	38,915	
448 Clothing and clothing access. stores	17,731	17,938	18,471	18,223	18,133	18,118	18,077	18,139	18,108	18,346	18,647	18,316	
4481 Clothing stores	12,865	13,095	13,422	13,264	13,178	13,197	13,122	13,176	13,176	13,283	13,578	13,382	
44811 Men's clothing stores(4)	(S)	(S)	(S)	(S)	(S)	(S)	(S)	(S)	(S)	(S)	(S)	(S)	
44812 Women's clothing stores	3,025	3,029	3,136	3,056	3,002	3,012	3,015	3,012	3,053	3,104	3,127	3,095	
4482 Shoe stores	2,241	2,281	2,306	2,267	2,271	2,294	2,281	2,317	2,305	2,316	2,341	2,327	
44831 Jewelry stores	2,454	2,394	2,564	2,522	2,519	2,459	2,505	2,478	2,449	2,560	2,536	2,413	
451 Sporting goods, hobby, book, and music stores	7,168	7,166	7,272	7,161	7,221	7,251	7,192	7,259	7,418	7,449	7,495	7,495	
452 General merchandise stores	50,315	50,655	51,012	50,860	50,254	50,533	50,650	50,938	51,130	51,172	51,804	51,261	
4521 Department stores (excl. L.D.)	15,712	15,802	15,962	15,668	15,396	15,570	15,419	15,478	15,445	15,290	15,738	15,403	
4529 Other general merchandise stores	34,603	34,853	35,060	35,192	34,858	34,963	35,231	35,460	35,685	35,882	36,066	35,858	
45291 Warehouse clubs and superstores	30,377	30,582	30,722	30,806	30,555	30,603	30,849	31,032	31,237	31,451	31,623	31,514	
45299 All other gen. merchandise stores	4,226	4,271	4,338	4,386	4,303	4,360	4,382	4,428	4,448	4,431	4,443	4,344	
453 Miscellaneous stores retailers	9,462	9,508	9,751	9,736	9,860	9,967	10,015	10,102	10,295	10,460	10,243	10,246	
454 Nonstore retailers	28,648	28,878	29,061	28,870	29,189	29,583	29,650	30,185	30,640	30,944	31,409	32,142	
4541 Electronic shopping and mail order houses	21,242	21,459	21,799	21,673	21,973	22,299	22,543	23,021	23,331	23,635	23,834	24,041	
45431 Fuel dealers	3,510	3,525	3,126	3,129	3,233	3,181	3,100	3,090	3,239	3,273	3,509	3,844	
722 Food services and drinking places	38,257	39,005	39,401	39,383	39,307	39,312	39,356	39,653	39,680	39,889	39,908	39,989	

(S) Suppressed

(1) GAFO represents stores classified in the following NAICS codes: 442, 443, 448, 451, 452, and 4532. NAICS code 4532 includes office supplies, stationery, and gift stores.

(2) Includes data for leased departments operated within department stores. Data for this line not included in any aggregate kind-of-business totals.

(3) Estimates are adjusted for seasonal variations and holiday and trading-day differences, but not for price changes. Cumulative seasonally adjusted sales estimates are not tabulated.

(4) With the introduction of a new sample with estimates for the September 2006 data month, we have identified a change in the seasonal pattern for estimates in Men's clothing stores (NAICS 44811). As a result, we have temporarily suspended the release of seasonally adjusted estimates for this industry. Because of the seasonal adjustment methodology, we have also suppressed from publication all estimates back through the January 2001 data month for this industry. We will continue to provide estimates not adjusted for seasonality; however, these estimates should be used with caution, as the new sample estimates may not be comparable with estimates from the old sample.

Note: Estimates are not adjusted for price changes. Retail and food services total and other subsector totals may include data for kinds of business not shown. Information on sample design, estimation procedures, and measures of sampling variability can be found on the internet at http://www.census.gov/retail/mrts/how_surveys_are_collected.html.

Bureau of Economic Analysis
National Income and Product Accounts Table
Table 2.1. Personal Income and Its Disposition

[Billions of dollars]

Today is: 4/12/2011 Last Revised on March 25, 2011 Next Release Date April 28, 2011

Line		2008	2009	2010
1	Personal income	12,391.1	12,174.9	12,546.7
2	Compensation of employees, received	8,065.8	7,806.7	7,991.1
3	Wage and salary disbursements	6,559.0	6,274.1	6,405.0
4	Private industries	5,415.1	5,100.5	5,217.9
5	Government	1,144.0	1,173.6	1,187.1
6	Supplements to wages and salaries	1,506.8	1,532.6	1,586.1
7	Employer contributions for employee pension and insurance funds	1,036.6	1,072.0	1,106.8
8	Employer contributions for government social insurance	470.1	460.6	479.2
9	Proprietors' income with inventory valuation and capital consumption adjustments	1,102.0	1,011.9	1,055.0
10	Farm	50.8	30.5	44.9
11	Nonfarm	1,051.2	981.5	1,010.1
12	Rental income of persons with capital consumption adjustment	222.0	274.0	300.9
13	Personal income receipts on assets	2,109.3	1,919.7	1,907.6
14	Personal interest income	1,314.7	1,222.3	1,194.9
15	Personal dividend income	794.6	697.4	712.7
16	Personal current transfer receipts	1,879.2	2,132.8	2,296.4
17	Government social benefits to persons	1,842.6	2,096.8	2,259.0
18	Old-age, survivors, disability, and health insurance benefits	1,068.3	1,164.5	1,213.9
19	Government unemployment insurance benefits	50.7	128.6	136.6
20	Veterans benefits	45.6	52.3	61.4
21	Family assistance ¹	19.3	20.1	19.8
22	Other	658.7	731.3	827.4
23	Other current transfer receipts, from business (net)	36.7	36.0	37.4
24	Less: Contributions for government	987.2	970.3	1,004.4

	social insurance, domestic			
25	Less: Personal current taxes	1,438.2	1,140.0	1,166.8
26	Equals: Disposable personal income	10,952.9	11,034.9	11,379.9
27	Less: Personal outlays	10,505.0	10,379.6	10,720.7
28	Personal consumption expenditures	10,104.5	10,001.3	10,349.1
29	Personal interest payments ²	246.2	216.8	198.9
30	Personal current transfer payments	154.3	161.4	172.7
31	To government	89.7	95.0	100.8
32	To the rest of the world (net)	64.6	66.5	71.9
33	Equals: Personal saving	447.9	655.3	659.2
34	Personal saving as a percentage of disposable personal income	4.1	5.9	5.8
	Addenda:			

Bureau of Economic Analysis
National Income and Product Accounts Table
Table 2.1. Personal Income and Its Disposition

[Billions of dollars]

Today is: 4/12/2011 Last Revised on March 25, 2011 Next Release Date April 28, 2011

Line		2008	2009	2010
35	Personal income excluding current transfer receipts, billions of chained (2005) dollars³	9,638.5	9,191.1	9,224.8
	Disposable personal income:			
36	Total, billions of chained (2005) dollars ³	10,042.9	10,099.8	10,241.4
	Per capita:			
37	Current dollars	35,931	35,888	36,697
38	Chained (2005) dollars	32,946	32,847	33,025
39	Population (midperiod, thousands)	304,831	307,483	310,106
	Percent change from preceding period:			
40	Disposable personal income, current dollars	5.1	0.7	3.1
41	Disposable personal income, chained (2005) dollars	1.7	0.6	1.4

REVENUE ESTIMATE

(REV. 4/98)

STATE OF CALIFORNIA
BOARD OF EQUALIZATIONBOARD OF EQUALIZATION
REVENUE ESTIMATE**ELECTRONIC COMMERCE AND MAIL ORDER SALES**

Summary

Updated Estimates. Based on information released by the U.S. Census Bureau and other sources in 2010, we have updated our estimates of remote sales (electronic and traditional mail order sales) revenue losses from out-of-state vendors. We now estimate annual revenue losses of \$1.145 billion in calendar year 2010 (to be remitted in fiscal year 2010-11). Of the total, \$795 million are owed by consumers and \$350 million were unpaid by businesses. These revenues are spread among approximately 13.1 million households and 3.4 million businesses. Unpaid sales and use tax liabilities in 2010-11 average \$61 per year for each California household and \$102 per year for each California business. Revenue from these out-of-state electronic commerce and mail order purchases are a significant component of the sales and use tax gap. (As defined here, the tax gap is the difference between what taxpayers owe and what they voluntarily pay.) This paper documents our estimates of sales and use tax revenues associated with electronic commerce and mail order sales that are not voluntarily paid from fiscal years 2008-09 through 2011-12.

Comparisons to Previous Estimates. Our previous estimates of remote sales revenue losses were released about a year ago. The estimates presented in this paper reflect the following new developments:

- The U.S. Census Bureau revised historical e-commerce estimates of purchases for both businesses and consumers. Most of the revisions were upward for both consumers and businesses.
- The recession that began in December 2007 ended in June 2009. Available evidence indicates that e-commerce growth rates for consumers and businesses have increased since the recession ended.
- The Board of Equalization implemented the In-state Service Business Component of the Tax Gap program in July 2008. We reviewed our revenue estimates for this program in light of additional information that became available within the past year.
- Legislation was passed and signed into law in 2009 (ABx4 18, Statutes of 2009) that we expect to significantly improve compliance of use tax payments by businesses, starting in fiscal year 2009-10. We reviewed and updated our compliance assumptions and revenue estimates associated with this program in light of additional information that became available within the past year.
- SB 1009 (Statutes of 2003), required a line on the income tax form to encourage consumers to pay their use tax obligations. This legislation and Board of Equalization outreach efforts have contributed to more consumers paying their use tax obligations on their income tax forms in recent years. The SB 1009 provisions were scheduled to sunset on January 1, 2010. However, legislation enacted in October 2010 (SB 858,

Statutes of 2010) extends the requirement to apply to sales made in 2010 and subsequent years.¹

Background, Methodology, and Assumptions

(1) Background Sources and Data Assumptions

The methodology used to derive these estimates is very similar to that which we used in our previous revenue estimates. There are two major markets for electronic commerce: business-to-consumer (B-to-C) and business-to-business (B-to-B). Each market has its own separate data sources and critical assumptions. We will assume all mail order sales are B-to-C. A more detailed description of our methodology and assumptions is found in our technical documentation.²

(2) Business-to-Consumer (B-to-C)

Other than reflecting the developments discussed above, we made no major changes in our methodology used to estimate business-to-consumer (B-to-C) purchases.

(A) Data Sources. We define remote sales as all sales from retail sellers to households that are made electronically or by using traditional mail order sales channels. Our basic data source is the U.S. Census Bureau, as it was in previous estimates. The Census Bureau publishes sales estimates for North American Industrial Classification System (NAICS) Industry 4541 ("Electronic Shopping and Mail Order Houses," or ESMOH) monthly, annually and every five years in various reports.³ This industry data is our basic data source, and it consists of retailers whose primary business (or a separate subsidiary) is mail order or electronic commerce sales. From another Census Bureau publication we add an estimate of e-commerce sales from companies that make a portion of their sales from websites, but have no separate website subsidiaries.⁴

(B) Taxable Portion of Remote B-to-C Sales. Data from the 2007 *Economic Census* for remote sales for NAICS Industry 4541 include detailed product categories and sales volumes of each. Based on this list of products, we estimate that about 30.5 percent of U.S. remote sales were exempt in 2007 under the California sales and use tax law. The vast majority of these exempt sales, 25.8 percent of the 30.5 percent, are prescription drugs. These percentages apply to all remote sales; there are no separate product data for electronic and mail order sales. We will assume that these national product category percentages of remote sales also apply to

¹ SB 858 (Statutes of 2010) applies to purchases of tangible personal property made on or after January 1, 2010, in taxable years beginning on or after January 1, 2010.

² "2010 Electronic Commerce and Mail Order Sales Revenue Estimates – Technical Documentation," December 6, 2010.

³ Every five years the U.S. Census Bureau takes a census of businesses. The most recent census year was 2007.

⁴ 2008 *E-Commerce Multi-sector Report*, U.S. Census Bureau, May 27, 2010, web site: <http://www.census.gov/eos/www/ebusiness614.htm>.

California. This premise implies that 69.5 percent of remote sales are taxable to California purchasers.

→ (C) Compliance and Nexus Percentage Assumptions. For revenue estimation purposes, we assume that all retailers registered with the Board of Equalization (firms with California nexus) are remitting the sales and use taxes they owe. We further assume that all use tax payments made by households were remitted on their income tax forms. ←

→ Based on research done in 2004 and updated with more recent information from the 2007 *Economic Census of Retail Trade*, we estimate that about 63 percent of remote sales to California households were made from retailers that have nexus in California. This estimate is based on company reports and employment and sales by employment size category.⁵ We also confirmed this estimate with data from the *Internet Retailer Top 500 Guide*. This percentage implies that 37 percent of revenues related to sales made by remote sellers to California households are not paid except for the amounts paid on income tax forms. ←

(D) Estimate and Forecast Assumptions. The most detailed data available are for 2008, and some data are available for 2009. An estimate of remote sales to consumers (ESMOH, as discussed earlier) for 2010 was made based on data available for the first nine months of the year. ESMOH sales from January through September 2010 increased 15.6 percent compared to the same period of 2009. Forecasts for 2011 and 2012 growth were made assuming the growth rate of ESMOH for the three years preceding the recession (2005, 2006, and 2007). This average growth rate is 13.3 percent per year.

Table 1 shows how these assumptions and data were combined to result in revenue estimates for each year. The data in the table are documented with line number references. We assume that all calendar year liabilities are all paid in the fiscal year ending July 1 of the following year. We first estimate what we call baseline revenues and then adjust them by subtracting use tax liabilities, most of which are paid by consumers on their income tax forms.⁶ These use tax payments on income tax forms increased about 14 percent in 2009. We assumed that this growth rate would continue through 2011.

⁵ Memo from Joe Fitz, Chief Economist, to Board Member Leonard, "Electronic Commerce," August 30, 2005.

⁶ Line 14 of Table 1 includes some unknown amounts of use taxes paid by sole proprietors on their income tax forms.

Table 1 Business to Consumer (B-to-C) Sales and Revenues (Millions of Dollars Unless Otherwise Noted)						
Line No.		Calendar Years				
		Actual	Estimated	Estimated	Forecast	Forecast
		2008	2009	2010	2011	2012
1	U.S. Sales Made by Electronic Shopping and Mail-Order Houses (ESMOH, NAICS 4541)	227,084	n.a.	n.a.	n.a.	n.a.
2	Other U.S. Retail E-commerce Sales (Excluding Cars) ^{1/}	9,357	n.a.	n.a.	n.a.	n.a.
3	Total Remote Sales (Line 1 + Line 2)	238,449	246,943	285,397	323,217	366,049
4	Growth Rate	2.1%	3.6%	15.6%	13.3%	13.3%
5	Taxable Percentage in 2007	69.5%	69.5%	69.5%	69.5%	69.5%
6	Estimated Taxable U.S. Remote Sales (Line 3 x Line 5)	165,722	171,625	198,351	224,636	254,404
7	California Share of U.S.	12%	12%	12%	12%	12%
8	California-Taxable U.S. Remote Sales (Line 6 x Line 7)	19,887	20,595	23,802	26,956	30,528
9	Noncompliance Rate	37%	37%	37%	37%	37%
10	Revenue Loss Tax Base (Line 8 x Line 9)	7,404	7,668	8,862	10,036	11,366
11	Tax Rate (Average Annual Rate for Calendar Year)	8.00%	8.83%	9.10%	8.61%	8.11%
12	Estimated Baseline Revenues (Line 10 x Line 11)	\$592	\$677	\$806	\$864	\$922
		Fiscal Years				
		2008-09	2009-10	2010-11	2011-12	2012-13
13	Estimated Baseline Revenues	\$592	\$677	\$806	\$864	\$922
14	Estimated Use Taxes Paid	\$9	\$10	\$11	\$13	\$15
15	Estimated Revenues Losses (Line 13 - Line 14)	\$583	\$667	\$795	\$851	\$907
Notes:						
1/ Line 2 adjusts online sales to include sales from companies without website subsidiaries. These are generally relatively small sellers.						

(2) Business-to-Business (B-to-B)

(A) Data Sources and Definitions

For a variety of reasons the data available for estimating B-to-B revenues are less certain than that for B-to-C revenues.⁷ We based our B-to-B revenue estimate on data from the Merchant Wholesale Trade Sales Survey published by the U.S. Census Bureau.⁸ Unlike the B-to-C data, we are not aware of any Census Bureau estimates that include traditional mail order sales to businesses. We assume that B-to-B electronic commerce sales include traditional mail order sales from one business to another business.

(B) California Adjustments

Vehicle Sales Adjustments and Industry Exemptions. We excluded transportation equipment purchases from our estimates because most vehicles are registered with the Department of Motor Vehicles and sales and use tax compliance is generally very high as a result. Some industries have exemptions or partial exemptions that reduce their use tax liabilities. The industries with exemptions for which we made adjustments are insurance (which is exempt from the use tax) and agriculture, which is exempt from the state portion of sales and use taxes for equipment purchases.

We adjusted for vehicle sales and these specific industry exemptions because we found data sources that in our judgment could reasonably estimate the exemptions. No data exists, to our knowledge, for online purchases for these adjustments. Therefore, we assumed that the overall purchase data relationships matched the online data relationships. Sources of data for these adjustments are the U.S. Census Bureau and the U.S. Bureau of Economic Analysis (BEA).⁹

California Share of U.S. Sales. Unlike B-to-C sales, we excluded the California portion of sales explicitly. (In B-to-C sales, the California portion is subsumed in the portion of all U.S. retail companies selling online that are registered with the Board. For B-to-B sales we are unable to determine the percentage of all companies that are registered with the Board.) Instead, we assume an estimate of the California share of all U.S. companies are registered with the Board. We use an estimate of 13 percent for the California share of U.S. B-to-B sales, which is slightly higher than our population share of the nation (12 percent) to reflect the share of California to U.S. gross domestic product.

⁷ U.S. Census Bureau e-commerce data are collected in several separate surveys. These surveys use different measures of economic activity (shipments, sales and revenues). The Census Bureau notes that these measures "should be interpreted with caution." There is potential for double counting of sales if the data are interpreted incorrectly. Furthermore, from a taxation perspective we do not know with certainty how much of the total B-to-B sales and use tax obligation has already been paid by businesses. For a more detailed discussion of these issues, see the Technical Documentation. The B-to-B estimates are subject to change to the extent that additional research may result in more accurate information.

⁸ 2008 E-Commerce Multi-sector Report, U.S. Census Bureau, May 27, 2010, web site: <http://www.census.gov/eos/www/ebusiness614.htm>.

⁹ Sources: 2010 Capital Spending Report: U.S. Capital Spending Patterns, 1999-2008, U.S. Census Bureau; Table 5.5.5 and "Industry Tables," U.S. Bureau of Economic Analysis.

(C) Exempt Sales. Sales data tabulated by the Census Bureau include all sales, both final sales and sales of intermediate goods used as inputs in the production process. We assume that 60 percent of sales are exempt, either because the exemption is related to the kinds of final goods sold or because the sales are not of final goods, but are instead sales for resale or intermediate goods used in production. If 60 percent of sales are exempt, this implies that the remaining 40 percent of sales are taxable under California law.

(D) Compliance by Businesses. These estimates reflect all taxable purchases made by businesses without addressing the issue of whether sales or use taxes have been paid. There are several channels through which sales and use taxes on purchases could be paid by businesses. Purchases are often made from companies that are registered with the state, and sales taxes would be paid at the time of purchase. Alternatively, use taxes could be paid by the purchasing firm or on income tax returns of individual proprietors. Overall compliance rates by businesses using any of these channels are unknown.

Through one means or another we believe that sales and use taxes are paid on 90 percent of the California taxable B-to-B electronic commerce sales. Board data on tax returns processed under AB 4x 18 indicate a similar percentage. The Illinois Department of Revenue estimates that businesses pay 90 percent of their sales and use tax liabilities.¹⁰ This compliance percentage also falls within a range reported by the U.S. General Accountability Office (GAO), which assumed a range of 50 to 95 percent compliance rates for taxable B-to-B purchases excluding cars.¹¹ We believe that California is likely to have far better compliance than most states because of both our size (which implies a greater percentage of business purchases from firms with nexus) and our long tradition of relatively strong tax administration. Ninety percent compliance implies that the remaining 10 percent of taxes due are not paid.

(E) Estimate and Forecast Assumptions. The most recent B-to-B e-commerce data are available for 2008. Census Bureau and BEA data indicate that the vast majority of business spending for final consumption are for capital equipment items. We estimated B-to-B e-commerce for 2009 using the growth rates in capital equipment spending from the BEA. For the 2010 through 2012 period we used forecasts of capital equipment spending from the UCLA Anderson Forecast.¹²

Table 2 shows how these assumptions and data were combined to result in revenue estimates for each year. The data in the table are documented with line number references. We assume that all calendar year liabilities are all paid in the fiscal year ending July 1 of the following year. We first estimate what we call baseline revenues and then adjust them by subtracting estimates of use tax liabilities to be paid by businesses because of both the BOE Tax Gap program efforts and AB x4 18. Revenues from BOE Tax Gap Program efforts are estimated to be \$70 million per year. The revenue estimates for AB x4 18 range from \$59 million in fiscal year 2010-11 to

¹⁰ "A New Method for Estimating Illinois's E-Commerce Losses," Andy Chupick and Natalie Davila, *Tax Analysts Special Report*, February 16, 2009.

¹¹ *Sales Taxes: Electronic Commerce Growth Presents Challenges; Revenue Losses Are Uncertain*, U.S. General Accounting Office, June, 2000. Car sales are often excluded in such analyses because with vehicle registration requirements, tax compliance rates for car purchases are assumed to be close to 100 percent.

¹² *UCLA Anderson Forecast*, September 2010 forecast.

\$116 million in fiscal year 2012-13. These estimates have the effect of subtracting over one-third of baseline revenues from the estimates in fiscal year 2012-13.

Table 2 Business to Business (B-to-B) Sales and Revenues (Millions of Dollars Unless Otherwise Noted)						
		Calendar Years				
		Actual	Estimated	Estimated	Forecast	
Line No.		2008	2009	2010	2011	2012
1	Merchant Wholesale Trade Sales (MWTS) E-commerce	1,262,370	1,064,079	1,188,463	1,305,152	1,431,051
2	Percent Change	0.9%	-15.7%	11.7%	9.8%	9.6%
<u>California Adjustments:</u>						
3	Transportation equipment	30,323	15,738	17,578	19,304	21,166
4	Partial exemption for agricultural equipment	5,644	5,047	5,637	6,190	6,788
5	Insurance equipment	2,515	2,120	2,368	2,600	2,851
6	U.S. E-commerce Adjusted for Industry Exemptions (Line 1 - Line 3 - Line 4 - Line 5)	1,223,888	1,041,174	1,162,880	1,277,058	1,400,247
7	California share of U.S. Gross Domestic Product	13%	13%	13%	13%	13%
8	Exclude Estimated Sales Made by CA Businesses (Line 6 x Line 7)	159,105	135,353	151,174	166,018	182,032
9	California-Adjusted U.S. Remote Sales (Line 6 - Line 8)	1,064,782	905,821	1,011,706	1,111,040	1,218,215
10	Estimated Share of Taxable Sales	40%	40%	40%	40%	40%
11	California-Taxable U.S. Remote Sales (Line 7 x Line 9 x Line 10)	55,369	47,103	52,609	57,774	63,347
12	Baseline Noncompliance Rate	10%	10%	10%	10%	10%
13	Revenue Loss Tax Base (Line 11 x Line 12)	5,537	4,710	5,261	5,777	6,335
14	Tax Rate (Average Annual Rate for Calendar Year)	8.00%	8.83%	9.10%	8.61%	8.11%
		Fiscal Years				
		<u>2008-09</u>	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>
15	Estimated CA-adjusted baseline revenues (Line 13 x Line 14)	\$443	\$416	\$479	\$497	\$514
16	<u>Revenue Adjustments:</u>					
17	BOE Tax Gap Program		70	70	70	70
18	Assembly Bill x4 18		29	59	81	86
19	<i>Estimated Revenues Losses (Line 15 - Line 17 - Line 18)</i>	\$443	\$317	\$350	\$346	\$358

Revenue Summary

California electronic commerce and mail order sales and use tax revenue estimates for fiscal years 2008-09 through 2011-12 are summarized in Table 3 below.

Table 3				
Estimated Revenue Losses From Total Remote Sales (B-to-B and B-to-C)				
(Millions of Dollars)				
	Fiscal Years			
	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>
<i>Total Estimated State and Local Revenue Losses^{1/}</i>	\$983	\$1,145	\$1,197	\$1,265
State General Fund	\$641	\$755	\$765	\$780
State Fiscal Recovery Fund	\$28	\$31	\$35	\$39
Local Funds	\$315	\$359	\$397	\$446
1/ Total estimated state and local revenue losses are the sum of figures from Table 1, Line 15 and Table 2, Line 19.				

Qualifying Remarks

These revenue estimates are based on overall projections of taxable sales without knowing whether or not sales or use taxes have already been paid. We then make assumptions about compliance to determine the revenue estimates. It is extremely difficult, if not impossible, to accurately determine the extent to which taxpayers are complying.

We also note that the most cost efficient method of collecting sales and use tax is to have the seller collect the tax and remit it to the Board. The state's sales and use tax law is designed to collect the revenue in this manner. The electronic commerce transactions that these estimates address are from out-of-state sellers who are not registered with the Board because they are not "engaged in business" in California. Federal law precludes states from requiring businesses not engaged in business in their states to collect the use tax from the purchaser. Without the ability to require the seller to collect the use tax and remit it to the Board, collecting these use tax liabilities from the purchaser can become very difficult and expensive.

In these electronic commerce transactions, since the seller is not registered with the Board, the purchaser has a use tax liability. Our estimates identify electronic commerce transactions as either business-to-business or business-to-consumer. For the most part neither the purchasing business nor the consumer may be aware of their use tax liability.

According to the *Economic Census* there were 3,426,952 businesses in California in 2007. The total unpaid use tax from electronic commerce sales made to these businesses is estimated to be \$350 million in fiscal year 2010-11. (This is 10 percent of total taxable B-to-B spending on which taxes are not being paid referenced on Line 13 in Table 2, adjusted for Board of Equalization Tax Gap programs and AB 4x 18.) That means that the average use tax liability is about \$102 per year. While some taxpayers may owe large amounts, others will have paid their liability in full or may not have use tax liabilities from remote purchases. Without the expensive

process of auditing a large number of these taxpayers, it would be difficult to know how much of this revenue we can expect to receive.

For business-to-consumer electronic commerce sales, it would be even less cost effective to pursue individual purchasers. There are about 13.1 million households in California. The average liability for electronic commerce sales would be about \$61 per household per year. (This is 37 percent of total taxable B-to-C spending on which taxes are not being paid referenced on Line 15 in Table 1.)

Preparation

This revenue estimate was prepared by Joe Fitz, Research and Statistics Section. For additional information, please contact Mr. Fitz at (916) 323-3802.

Current as of December 6, 2010.

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